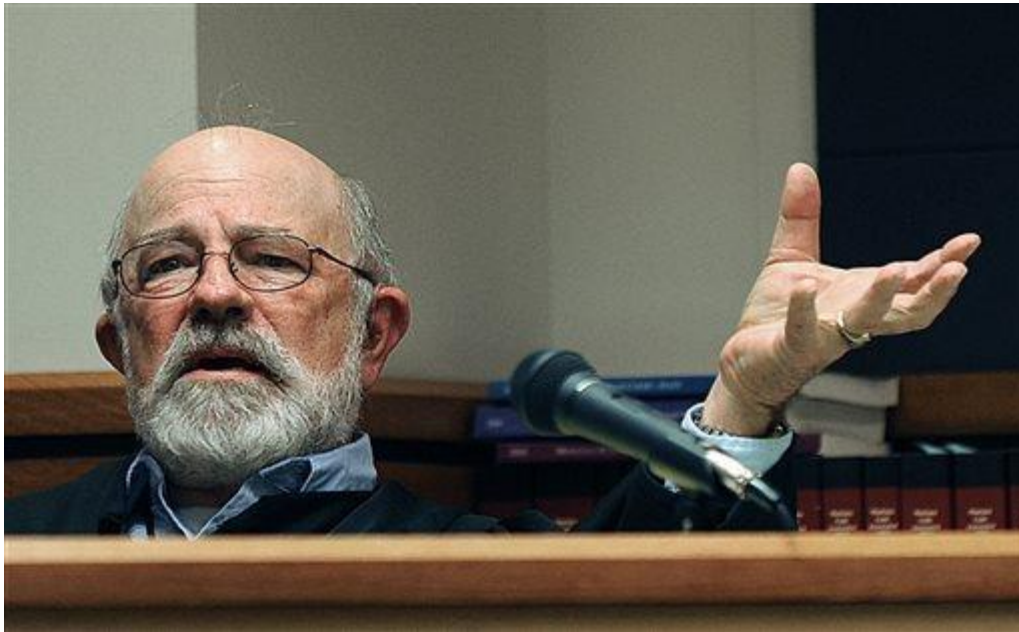


# AP Exclusive: Judge says he broke ethics code

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FILE - This undated file photo shows District Judge G. Todd Baugh presiding at a hearing in Great Falls, Mont. The Montana judge under fire for commenting that a 14-year-old student rape victim appeared "older than her chronological age," said Tuesday, Dec. 3, 2013, that he deserves to be censured but not removed from the bench for the remarks. Baugh told The Associated Press the comments violated judicial ethics rules by failing to promote public confidence in the courts. But he repeated prior assertions that his comments did not factor into the 30-day sentence handed down in the case. And he said he has no immediate plans to resign in the face of formal complaints filed by rape victim advocates. BILLINGS GAZETTE, LARRY MAYER, FILE — AP Photo

BILLINGS, Mont. — A Montana judge under fire for commenting that a 14-year-old rape victim appeared "older than her chronological age" said Tuesday that he deserves to be censured but not removed from the bench for the remarks.

District Judge G. Todd Baugh told The Associated Press the comments violated judicial ethics rules by failing to promote public confidence in the courts.

"I shouldn't have said that. ... I don't contest that appearance of impropriety," he said during an interview in his chambers at the Yellowstone County Courthouse in Billings.

"I don't think it's appropriate to be removed," he added.

The 72-year-old judge repeated his assertion that his comments did not factor into the 30-day sentence handed down in the case, he said he has no plans to resign in the face of formal complaints filed by advocates for rape victims.

Baugh sentenced former teacher Stacey Rambold in August for the 2007 rape of high school freshman Cherice Moralez, who killed herself before the case went to trial. Rambold, a former business teacher, was 47 when prosecutors said he took advantage of the girl and assaulted her three times — in his house, in the back seat of his vehicle, and at school.

He was eventually convicted on a single count of sexual intercourse without consent.

The office of Montana Attorney General Tim Fox has appealed Rambold's sentence as illegal and too lenient. He remains free while the appeal is pending before the Montana Supreme Court.

The judge defended the sentence in a Nov. 13 letter to the Judicial Standards Commission, despite his earlier acknowledgements that it appeared to be illegal. He said his description of the sentence as "fair" referred to the full 15-year prison term, most of which he suspended.

In the letter obtained by the AP, Baugh pointed to what he called the "legally and morally good conduct" of Rambold in the years after he agreed to a deferred prosecution.

That 2010 deal allowed Rambold to avoid a conviction until he violated its terms by having unauthorized visits with his relatives' children and entering a sexual relationship with one or more adult women.

A representative of an advocacy group that filed one of seven pending complaints against the judge said the letter shows Baugh still has not taken ownership of his comments.

"He's saying the defendant did the morally right thing. Excuse me, the man raped the girl. What is so morally right about that?" said Marian Bradley, president of the Montana chapter of the National Organization for Women. "He should be removed or he should remove himself."

The victim's mother, Auliea Hanlon, said after reviewing a copy of Baugh's letter that she was "highly disappointed" in his response.

Baugh also said Tuesday that a member of the state judicial ethics panel told him in October that he would be recommended for censure by the state Supreme Court over his comment.

The claim could not be verified because the Montana Judicial Standards Commission typically does not release information about pending cases. Commission chairman Edward McLean, a state district judge in Missoula, said in an email that its policy is not to comment on any matters pending before the commission.

Baugh declined to say which member of the five-person panel he had spoken with.

"I'm kind of a lightning rod on this and I don't want somebody collaterally damaged," he said.

Commission Executive Secretary Shelly Nash said the Bough complaints were still under review. The matter was expected to come before the panel at its next meeting Dec. 10, Nash said.

The state argued in court documents filed Friday that Rambold should have served a mandatory minimum of four years behind bars, and that an even longer sentence of 20 years with 10 years suspended was justified.

Rambold's attorney Jay Lansing declined comment.

Prosecutors previously said at least two years in prison was required. Yellowstone County Attorney Scott Twito said Tuesday that attorneys for the state decided for the purposes of the appeal to rely on a different section of state sentencing laws. He added that he respected the decision.

Twito said the confusion over which statutes to apply underscored the need for the state Supreme Court to clarify which sentences are appropriate in rape cases.

"It's just confusing," Twito said. "That's been a struggle all along."

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